

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**JILLIAN HARROD, individually and
heir to the estate of Justin Harrod,
Plaintiff**

v.

**LLANO COUNTY, TEXAS, BILL
BLACKBURN, BYRON
CERVANTEZ, and RANDY SHAW,
Defendants**

Case No. 1:24-CV-00388-DII

O R D E R

Before the Court are Plaintiff's Opposed Proposed Scheduling Order (Dkt. 17) and Defendants' Proposed Scheduling Order (Dkt. 18), both filed August 23, 2024. On October 2, 2024, the Court held an Initial Pretrial Conference at which counsel for both parties were present.

Plaintiff Jillian Harrod brings this civil rights suit under 42 U.S.C. §§ 1983 and 1988. She asserts causes of action for excessive force against Llano County Sheriff's Deputies Byron Cervantez and Randy Shaw, inadequate training by Llano County, and deliberate indifference by Llano County Sheriff Bill Blackburn. Complaint, Dkt. 1. Blackburn, Cervantez, and Shaw assert that they are entitled to the defenses of qualified immunity. Answer, Dkt. 9 at 6.

Defendants submitted a proposed scheduling order that includes deadlines for discovery and dispositive motions on the issue of qualified immunity. Plaintiffs oppose phased discovery without a pending motion to dismiss on that basis.

Qualified immunity protects government officials from individual liability for damages. *Ramirez v. Killian*, 113 F.4th 415, 421 (5th Cir. 2024). Immunity is a threshold issue to be resolved as early in the proceedings as possible. *Ramirez v. Guadarrama*, 3 F.4th 129, 133 (5th Cir. 2021) (citing *Mitchell v. Forsyth*, 472 U.S. 511, 526-27 (1985)). A court may not permit discovery

against any defendants asserting immunity before it rules on their defense. *Carswell v. Camp*, 54 F.4th 307, 311 (5th Cir. 2022).

The Court finds that permitting phased discovery on qualified immunity will serve the interests of justice in this case, in which three defendants have asserted the affirmative defense of qualified immunity. The Court also finds that the short period of qualified immunity discovery proposed by Defendants will not prejudice Harrod.

For these reasons, the Court will enter a separate Scheduling Order incorporating deadlines for discovery and dispositive motions on the issue of qualified immunity, as well as the other deadlines to which the parties agreed during the Initial Pretrial Conference.

IT IS SO ORDERED.

SIGNED on October 3, 2024.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE